



Melissa A. Shaw  
Bayer Corporation  
800 Dwight Way  
P.O. Box 1986  
Berkeley, CA 94701

In re Application of	:	
Chen et al.	:	
Application No.: 10/019065	:	DECISION ON
PCT No.: PCT/US01/10222	:	
Int. Filing Date: 30 March 2001	:	PETITION UNDER
Priority Date: 31 March 2000	:	
Attorney Docket No.: MSB-7265-PCT-US	:	37 CFR 1.137(b)
For: Protein Having Activity As	:	
An Angiogenesis Monitor	:	

This is a decision on applicant's petition under 37 CFR 1.137(b) filed on 07 December 2001.

### **BACKGROUND**

This international application was filed on 30 March 2001 and claimed an earlier priority date of 31 March 2000. No Demand electing the United States was filed prior to the elapse of 19 months from the priority date. Consequently, the twenty period for payment of the basic national fee in the United States expired as of midnight on 31 November 2001. This application became abandoned with respect to the United States for failure to timely pay the basic national fee.

On 07 December 2001, applicants filed a Transmittal Letter accompanied by, *inter alia*, the instant petition.

### **DISCUSSION**

A grantable petition to revive an abandoned application under 37 CFR 1.137(b) must be accompanied by (1) the required reply, unless previously filed; (2) the petition fee as set forth in § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and (4) any terminal disclaimer (and fee as set forth in § 1.20 (d)) required pursuant to paragraph (c) of this section.

Regarding requirement (1), the petition is accompanied by the required reply in the form of an authorization to charge the basic national fee to counsel's deposit account.

Regarding requirement (2), the petition is accompanied by authorization to charge the petition fee to counsel's deposit account.

Regarding requirement (3), the petition includes an appropriate statement.

Regarding requirement (4), no terminal disclaimer is required because the international filing date of this application is later than 8 June 1995.

**DECISION**

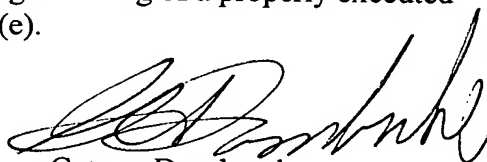
The petition to revive the application abandoned under 35 U.S.C. 371(d) is **GRANTED** with respect to the national stage in the United States.

The declaration of the inventors accompanying the petition is defective in that the declaration names "Monte Wetzel" as an inventor, whereas the published international application names "Wetzel, Gayle, Delmonte."

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing, including the preparation and mailing of a Notification of Missing Requirements (Form PCT/DO/EO/905) requiring the filing of a properly executed oath or declaration and a surcharge under 37 CFR 1.492(e).



Leonard Smith  
PCT Legal Examiner  
PCT Legal Office



George Dombroske  
PCT Legal Examiner  
PCT Legal Office  
Tel: (703) 308-6721  
Fax: (703) 308-6459